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FEB 24 1999

Lynn Shapiro Starr  
Vice President  
Regulatory Affairs

February 24, 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: **Ex Parte Statement**  
CC Docket 98-141

Dear Ms. Salas:

Kelly Welsh, Executive Vice President and General Counsel for Ameritech, Jim Smith, Vice President - Regulatory Affairs for Ameritech Ohio, Paul Mancini, General Attorney and Assistant General Counsel for SBC Communications, Inc., and I met today with Tom Krattenmaker, Bill Rogerson and Kathryn Brown. The purpose of the meeting was to provide information regarding the proposed SBC-Ameritech Merger Settlement Agreement in Ohio. The Agreement sets terms for the Ohio Public Utilities Commission to approve the merger.

We also provided copies of the proposed Agreement. A copy is being submitted with this notice in accordance with Commission's Rules.

Sincerely yours,

A handwritten signature in cursive script that reads "Lynn Starr".

Lynn S. Starr  
Vice President  
Regulatory Affairs

Attachment

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FEB 24 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application  
of SBC Communications Inc., SBC  
Delaware, Inc., Ameritech Corporation,  
and Ameritech Ohio  
for Consent and Approval  
of a Change of Control.

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Case No. 98-1082-TP-AMT

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STIPULATION AND RECOMMENDATION

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Joint Application</b>	)	
<b>of SBC Communications Inc., SBC</b>	)	<b>Case No. 98-1082-TP-AMT</b>
<b>Delaware, Inc., Ameritech Corporation,</b>	)	
<b>and Ameritech Ohio</b>	)	
<b>for Consent and Approval</b>	)	
<b>of a Change of Control.</b>	)	

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**STIPULATION AND RECOMMENDATION**

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The Staff of the Public Utilities Commission of Ohio ("Commission Staff" or "Staff"), and the parties hereto,<sup>1</sup> being the Joint Applicants (SBC Communications Inc. ("SBC"), SBC Delaware, Inc., Ameritech Corporation ("Ameritech"), and Ameritech Ohio) and such of the intervening parties in this proceeding as have evidenced their agreement by subscribing hereto (collectively, the "Stipulating Parties"), hereby submit to the Public Utilities Commission of Ohio (the "Commission") this Stipulation and Recommendation (the "Stipulation").

**I. RECITALS**

A. On July 24, 1998, SBC, SBC Delaware, Inc., Ameritech, and Ameritech Ohio filed a Joint Application seeking Commission approval of a change of control for Ameritech Ohio pursuant to R.C. § 4905.402.

B. In the Commission's October 15, 1998 Entry, the motions to intervene of the following parties were granted: Time Warner Telecom of Ohio, L.P. ("Time Warner Telecom"), Time Warner Cable, Ohio Consumers' Counsel ("OCC"), Payphone Association of Ohio, Ohio

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<sup>1</sup> Pursuant to O.A.C. 4901-1-10, the Staff is a party for purposes of this Stipulation.

Cable Telecommunications Association ("OCTA"), City of Toledo, AT&T Communications of Ohio, Inc. (AT&T), Airtouch Cellular, Inc., State Alarm, Inc., Nextlink Ohio, Inc., United Telephone Company of Ohio, Sprint Communications Company L.P., Empowerment Center of Greater Cleveland, CoreComm Newco, Inc. f/k/a Cellular One, Telecommunications Resellers Association, MCI Telecommunications Corp., MCImetro Access Transmission Services, Inc., Iwaynet Communications, Inc., ICG Telecom Group, Inc., and Edgemont Neighborhood Coalition ("Edgemont"). The motion to intervene of Parkview Areawide Seniors was granted by Entry dated October 29, 1998, and the motion to intervene of American Association of Retired Persons ("AARP") was granted by Entry dated December 18, 1998. The City of Toledo and AirTouch Cellular, Inc. subsequently withdrew from this proceeding.

C. On October 15, 1998, the Commission issued an Entry identifying issues to be addressed in this proceeding.

D. On November 6, 1998, the Commission Staff filed a Preliminary Independent Staff Proposal Relative To The Issues Identified by the Public Utilities Commission of Ohio (the "Staff Proposal").

E. The Joint Applicants and several intervenors filed comments and reply comments, as well as written testimony in this case, and a hearing was commenced on January 7, 1999 pursuant to the schedule established by the Commission.

F. Representatives of the Joint Applicants, Commission Staff, and all parties interested in doing so met in several open sessions, beginning on December 16, 1998, in an attempt to reach a common resolution of the nine issues set forth in the Commission's October 15, 1998 Entry. All parties were noticed for all sessions. Prior to execution of the final draft of the

Stipulation, multiple drafts, including but not limited to a final draft, were circulated to all parties for their review and comment.

G. After extensive negotiations, the Stipulating Parties, represented by experienced counsel and other experts reflecting widely varying interests and knowledgeable of the circumstances, having before them, inter alia, the Joint Application and Staff Proposal, having conducted extensive discovery and reviewed and considered the comments and testimony in this proceeding, and otherwise being fully advised, have agreed upon the terms of this Stipulation, set forth herein, and recommend its adoption by the Commission.

H. The Stipulating Parties recognize that the Commission is not bound by the terms of this Stipulation, but submit that it is entitled to careful consideration. The Stipulating Parties stipulate that (1) this Stipulation is a product of serious bargaining among capable, knowledgeable parties; (2) the Stipulation, as a package, benefits customers and the public interest; and (3) the Stipulation and its terms and conditions do not violate any important regulatory principle or procedure.

I. The Supporting Stipulating Parties stipulate that this Stipulation promotes competition, addresses the issues identified in the Commission's October 15, 1998 Entry, and satisfies the requirements contained in R.C. § 4905.402 and in R.C. §§ 4905.49 and 4905.491, if deemed applicable. The Supporting Stipulating Parties further stipulate and agree that approval of the Joint Application conditioned on the terms of this Stipulation will promote the public convenience and result in the provision by Ameritech Ohio of adequate service for a reasonable rate, rental, toll, or charge. Accordingly, the Supporting Stipulating Parties recommend that the Stipulation should be adopted in its entirety, without modification, deletion, or addition, by the Commission.



WHEREFORE, the Stipulating Parties hereby stipulate and agree as follows:

## II. DEFINITIONS

A. The term **"Alternative Regulation Plan"** means the Plan of Alternative Regulation approved by the Commission in Case Nos. 93-487-TP-ALT and 93-576-TP-CSS by its Opinion and Order dated November 23, 1994 and Entry on Rehearing dated January 19, 1995, ratified by Senate Bill 306 signed into law on June 18, 1996, and implemented pursuant to the Settlement Agreement in Case No. 96-532-TP-UNC.

B. The terms **"Commission"** and **"PUCO"** mean the Public Utilities Commission of Ohio.

C. The term **"SBC/Ameritech"** means SBC Communications Inc., Ameritech Corporation, Ameritech Ohio, and/or any of their affiliates.

D. The term **"Merger"** means the business combination of SBC Communications Inc. and Ameritech Corporation as set forth in the Agreement and Plan of Merger Among Ameritech Corporation, SBC Communications Inc. and SBC Delaware, Inc., Dated as of May 10, 1998 (the **"Merger Agreement"**).

E. The terms **"Merger Closing Date"** and **"Merger Closing"** mean the day that, pursuant to the Merger Agreement, Ameritech and SBC cause a Certificate of Merger to be executed, acknowledged, and filed with the Secretary of State of Delaware as provided in Section 251 of the Delaware General Corporation Law, as amended.

F. The term **"NEC"** means a New Entrant Carrier as that term is defined in the Commission's guidelines issued in Case No. 95-845-TP-COI as of the date of this Stipulation, regardless of whether future regulatory changes alter the meaning of a NEC in Ohio.

G. The term **"Small NEC"** means any NEC that, when combined with all of the NEC's affiliates and the NEC's joint ventures that provide telecommunications services, has less

than \$300 million in total annual telecommunications revenues, excluding revenues from wireless services, as reported to the Securities and Exchange Commission or in other documents mutually agreeable to such NEC and SBC/Ameritech. Any dispute relating to the application of this definition may be resolved by the Commission.

H. The term **"Collaborative Process"** means a series of meetings open to all interested persons wherein all participants will endeavor in good faith to reach a mutually agreeable resolution of the issue or issues presented for discussion at such meetings. However, in the event the participants are not able to reach a mutually agreeable resolution, SBC/Ameritech and all other participants retain the right to develop and propose to the Commission a resolution to any issue that they believe is appropriate.

I. Where this Stipulation defines a period of time as "x years following" an event or as "a period of x years" after an event, the period of time begins on the date of the event and ends x years thereafter (*i.e.*, if the Stipulation refers to "3 years following the Merger Closing Date" and the Merger Closing Date is 7-1-1999, the relevant time period is from 7-1-1999 through 6-30-2002).

J. The term **"Stipulating Party"** refers to a signatory to this Stipulation.

K. The term **"Supporting Stipulating Party"** refers to a signatory party to this Stipulation that supports the Joint Application based on this Stipulation.

L. The term **"Non-Opposing Stipulating Party"** refers to a signatory party to this Stipulation that agrees not to oppose the Joint Application based on this Stipulation.

### **III. GENERAL TERMS AND CONDITIONS**

A. The Supporting Stipulating Parties agree that, subject to the conditions as set forth herein, the Commission should approve the Joint Application by approving and adopting, as part

of its Opinion and Order in this matter, this Stipulation resolving all of the issues in this proceeding.

B. The terms of this Stipulation shall become effective upon approval of the Stipulation, by Commission Order, as a full and final resolution of the issues.

C. Except as otherwise specifically stated, the terms of this Stipulation shall commence on the Merger Closing Date. In the event the Joint Applicants withdraw their Joint Application, the obligations under this Stipulation shall then become null, void, and of no effect except for those which by their express terms survive such a withdrawal.

D. On the Merger Closing Date or immediately thereafter, the Joint Applicants will file a notice in this docket that the Certificate of Merger has been filed with the Secretary of State of Delaware.

E. The Stipulating Parties agree that, if the Commission's Opinion and Order in this proceeding adopting this Stipulation contains material modifications, deletions, or additions, as the basis for its decision in this proceeding, to be evidenced by incorporation of such material modifications, deletions, or additions of this Stipulation within the Commission's Order in this proceeding by reference, restatement, and/or attachment, any Stipulating Party may withdraw its consent for joining this Stipulation by filing a notice of withdrawal indicating the same within 15 days of the issuance of such Opinion and Order. If the withdrawing Stipulating Party is a Supporting Stipulating Party, then this Stipulation shall thereupon become null and void and shall not constitute any part of the record in this proceeding, nor shall it be used for any purpose in this proceeding or any other proceeding. If such a notice is filed by a Supporting Stipulating Party, the Stipulating Parties agree that the hearing in this proceeding should be reconvened for the Commission Staff to submit its testimony and for any rebuttal testimony as authorized by the

Commission. In the event the hearing is reconvened for that purpose, the Stipulating Parties agree that the hearing in this proceeding should not be considered concluded, for purposes of triggering the 20-day decision timeline in R.C. § 4905.402, until such time as the reconvened hearing is concluded. A notice of withdrawal by one or more Non-Opposing Stipulating Parties shall not render the Stipulation null and void, and the Stipulation shall continue to be a part of the record in this proceeding. Should a Non-Opposing Stipulating Party file a notice of withdrawal pursuant to this Section III.E., however, that party may thereafter elect to file an application for rehearing, support or oppose another party's application for rehearing, and/or file an appeal from the Commission's adoption of the Stipulation (as modified by the Commission).

F. Subject to Commission approval, the Stipulating Parties agree to support completion of the hearing and briefing on this Stipulation in an expeditious manner so as to allow the record to be submitted to the Commission within 30 calendar days of the date of this Stipulation.

G. The Stipulating Parties agree that they will make no official statement or representation, orally or in writing, inconsistent with the Supporting Stipulating Party or Non-Opposing Stipulating Party status of the signatories to this Stipulation, and will use their best efforts to ensure that their agents and employees will make no such statement or representation.

#### **IV. PERFORMANCE MEASUREMENTS, STANDARDS/BENCHMARKS, AND REMEDIES FOR OPERATIONS SUPPORT SYSTEMS AND FACILITIES**

##### **A. Collaborative Process for Applying Best Practices to Improve OSS.**

1. SBC/Ameritech shall adopt procedures for improving Ameritech Ohio's OSS as set forth in this Section IV.A. SBC/Ameritech will establish a joint SBC/Ameritech task force comprised of their OSS subject matter experts that is to identify the best practices of SBC's and Ameritech's OSS. As part of the effort to improve OSS, the joint SBC/Ameritech task force will investigate the economic and technical feasibility of improving and integrating SBC's and Ameritech Ohio's OSS systems, including but

not limited to, systems and procedures for pre-ordering, ordering, provisioning, billing, and repair and maintenance.

2. In conjunction with such task force, SBC/Ameritech will obtain advisory input from the Commission Staff and NECs through a collaborative process.
3. SBC/Ameritech will present to the collaborative participants proposed OSS improvements to Ameritech Ohio's OSS within 60 days of the Merger Closing. SBC/Ameritech will also report on planned OSS improvements and the associated implementation timelines to the collaborative participants within 90 days of the Merger Closing. SBC/Ameritech further agree to implement such improvements to Ameritech Ohio's OSS within 180 days of the Merger Closing unless they conclude that it is not economically or technically feasible to implement one or more of the proposed OSS improvements within such 180 day period or at all. If SBC/Ameritech reach such a conclusion, they will review this conclusion with the collaborative participants, prior to the report to be submitted within 90 days of the Merger Closing Date. Such review will include any recommendations on substitute measures or modified timelines that could be implemented in the alternative.
4. SBC/Ameritech will provide NECs with ongoing advance information on OSS improvements and a reasonable period to make related changes, if any, to their systems by incorporating the principles contained in the Change Control Process described in the document entitled "SWBT Competitive Local Exchange Carrier (CLEC) EDI/LSR Change Control Process," which is attached hereto as Appendix 2, within 30 days of the Merger Closing Date.
5. SBC/Ameritech will utilize the approach contained in the California template for an Interconnection Agreement Appendix, which is attached hereto as Appendix 3, for providing NECs access to new and/or changed OSS systems.

**B. Additional Support for Small NECs.**

1. Within 30 days following the Merger Closing Date, SBC/Ameritech will also designate and make available a team of a sufficient number of OSS experts dedicated and empowered to assist Small NECs in Ohio with OSS issues. Such team will be available to provide training and assistance, but not the provisioning of telecommunications services, to such NECs at no additional cost for a minimum of 12 months following the designation of the team. A Small NEC may reasonably request a change, expansion, and/or reduction in the composition of the dedicated team.

2. For those Small NECs that are Stipulating Parties, the Joint Applicants will implement the dedicated team of OSS experts referenced in Section IV.B.1. beginning 30 days following the Commission's entry of a final appealable order in this proceeding approving the Merger. Such team will be available to provide assistance for either: i) 12 months following the designation of the team; or ii) 12 months following the Merger Closing Date, whichever results in a longer period of assistance.
3. Within 90 days following the Merger Closing Date, SBC/Ameritech will identify and develop training, procedures, and systems that will be beneficial to Small NECs operating in Ohio. Within 120 days following the Merger Closing Date, SBC/Ameritech will provide notice of such training, procedures, and systems to all Small NECs.

C. NEC Service Centers, Staffing, and Resolution of Current OSS Disputes.

1. The Joint Applicants will not move the Ameritech NEC service centers located in Milwaukee, Wisconsin and Grand Rapids, Michigan for 12 months following the Merger Closing Date.
2. The Joint Applicants will not reduce Ameritech's staffing levels of experienced and qualified staff dedicated and empowered to provide NEC service, including staffing based in Ohio, for 4 years following the Merger Closing Date. The staffing levels shall be based on the highest of: i) the levels in place as of the Merger Closing Date; ii) the levels in place as of the date on which the Commission enters a final appealable order approving the Merger; or iii) the levels in place as of the date of the Stipulation.
3. During the period between the date of this Stipulation and the Merger Closing Date, Ameritech Ohio will use its reasonable best efforts, in good faith, to resolve current OSS disputes.
4. During the period commencing on the date of this Stipulation and ending 4 years following the Merger Closing Date, a NEC may reasonably request in writing, with substantiation, that Ameritech Ohio address claimed problems with an assigned account manager. Ameritech Ohio commits to seriously consider the request after investigation and to meet with the NEC promptly within 30 days to discuss the claimed problems and to attempt to address them.

D. Collaborative Process for Implementing OSS and Facilities Performance Measurements, Standards/Benchmarks, and Remedies.

1. Within 30 days following the Merger Closing Date, SBC/Ameritech will establish a joint SBC/Ameritech task force comprised of their performance

measurements subject matter experts that is to develop a plan to implement OSS and facilities performance measurements, associated standards/benchmarks, and remedies in Ohio.

2. The task force will review the economic and technical feasibility of adopting in Ohio each of the OSS and facilities performance measurements and related standards/benchmarks that SBC has agreed to implement in Texas as a result of the Texas collaborative process ("the Agreed To Standards/Benchmarks," which are attached hereto as Appendix 1). This review will identify the differences, if any, between the underlying legacy systems and equipment, including computer, manual and data generating systems and equipment, in Texas and Ohio which may make it economically or technically infeasible to implement certain agreed to performance measurements and/or related standards/benchmarks in Ohio. If no such differences are identified for a particular measurement or standard/benchmark, SBC/Ameritech will implement that performance measurement or standard/benchmark in Ohio. As of the date of this Stipulation, SBC has agreed to implement in Texas 105 such performance measurements and Agreed To Standards/Benchmarks, which include the performance measurements identified in a U.S. Department of Justice March 6, 1998 letter. Should SBC agree to implement additional measurements or standards/benchmarks in the Texas collaborative prior to the date the task force is established, the task force will include such additional measurements or standards/benchmarks within its review.<sup>2</sup> Additionally, should SBC agree to remedies (e.g., damages, penalties, and credits) associated with one or more Agreed To Standards/Benchmarks in the Texas collaborative prior to the date the task force is established, the task force will also review such agreed to remedies to determine whether it is appropriate to implement such remedies in Ohio considering any relevant differences between Texas and Ohio.
3. Within 60 days following the Merger Closing Date, in conjunction with such task force, SBC/Ameritech will work with the Commission Staff, NECs, and any other interested parties in a collaborative process to develop the initial performance measurements, standards/benchmarks, and remedies to be implemented in Ohio. SBC/Ameritech will meet with the collaborative participants on a regular basis to review the status of implementing each of the agreed to performance measurements, Agreed To Standards/Benchmarks, and/or remedies in Ohio. Such review will include either:

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<sup>2</sup> Provided, however, that should SBC agree to LNP-related performance standards in Texas, such LNP-related performance standards will not be Agreed To Standards/Benchmarks subject to the task force's review. Nevertheless, any participant in the collaborative process may suggest LNP-related performance standards that are appropriate for discussion and potential implementation in Ohio.

- (A) the timeline for implementing the performance measure, associated standard/benchmark, and remedy in Ohio; or
  - (B) an explanation of why SBC/Ameritech believe it is not economically and/or technically feasible to implement either the performance measure, standard/benchmark or remedy in Ohio, in which case SBC/Ameritech would discuss any substitute measure(s), associated standard(s)/ benchmark(s), and/or remedy(ies) that would be appropriate.
- 4. Within 120 days following the Merger Closing Date, the task force will complete its initial review of performance measurements/ standards/benchmarks/remedies with the collaborative participants.
- 5. Beginning 90 days following the Merger Closing Date and completing within 180 days following the Merger Closing Date, SBC/Ameritech will implement in Ohio (subject to any required Commission approval, which will be timely sought), each of the Agreed To Standards/Benchmarks that they determine are economically and technically feasible to implement. Implementation will occur on a rolling basis as each Agreed To Standard/Benchmark is tested and becomes operationally ready and will fully apply to both resale and facilities, where applicable, when implemented. If SBC/Ameritech determine that it is not economically or technically feasible to implement one or more Agreed To Standards/Benchmarks in Ohio within 180 days following the Merger Closing Date, they agree to implement such Agreed To Standards/Benchmarks as soon as it is economically or technically feasible to do so.
- 6. Within the later of 270 days following the Merger Closing Date or April 1, 2000, SBC/Ameritech will implement in Ohio at least 79 of the 105 performance measurements and related standards/benchmarks as set forth in Appendix 1. SBC/Ameritech will not raise economic or technical feasibility or the exception for Y2K-related problems set forth in Section XIV.C. as an excuse for noncompliance with this commitment. Within 280 days following the Merger Closing Date or April 11, 2000, whichever is later, SBC/Ameritech will file a letter in this docket and serve such letter upon all NECs with whom Ameritech Ohio has an approved interconnection agreement attesting whether or not SBC/Ameritech have met this commitment. Such attestation is subject to review by the Commission. If SBC/Ameritech attest that they did not, or the Commission finds that they did not, implement in Ohio at least 79 of the 105 performance measurements and related standards/benchmarks set forth in Appendix 1 within the later of 270 days following the Merger Closing Date or April 1, 2000, SBC/Ameritech will make a payment of \$20 million, as follows:



a. \$17.5 million, as payments to NECs providing end-user service within Ameritech Ohio's service area as of the date 270 days following the Merger Closing Date or April 1, 2000, whichever is later, as follows:

(A) A NEC's Access Lines, for each NEC, shall be its total number of access lines in service, including, without limitation, residence access lines, business access lines and end-user trunks, and ISDN lines, whether resold or not, measured as of the date 270 days following the Merger Closing Date or April 1, 2000, whichever is later, within Ameritech Ohio's current service area. Each NEC that desires to receive any of the \$17.5 million in payments must provide to the Commission Staff, no later than 300 days following the Merger Closing Date or May 1, 2000, whichever is later, a report identifying the number of such lines and trunks for that NEC. Such report shall separately identify: i) the number of resold Ameritech Ohio access lines; ii) the number of unbundled loops purchased from Ameritech Ohio; and iii) all other such lines and trunks in service within Ameritech Ohio's current service area. Each NEC submitting such a report will certify to the Commission Staff the accuracy of such report. The Commission Staff will notify each qualifying NEC of its pro-rata share of the \$17.5 million. Thirty days after the date of such notice, the Commission Staff will provide notice to SBC/Ameritech as to the appropriate disbursement of the \$17.5 million. Within 30 days of receiving this notice from the Commission Staff, Ameritech Ohio will issue checks totalling \$17.5 million made payable to each qualifying NEC for the disbursement amounts listed in Staff's notice to Ameritech Ohio.

(B) Total NEC Access Lines shall be the sum of (A) above for all qualifying NECs submitting a timely report.

(C) A NEC's Pro-Rata Share shall be the ratio of (A) above for that NEC, divided by (B).

(D) Each affected NEC within Ameritech Ohio's current service area shall receive a payment equal to \$17.5 million multiplied by the NEC's Pro-Rata Share; and

b. \$2.5 million to the Community Technology Fund described below in Section VI.G.

7. If Ameritech/Ohio reports that it has met the commitments as provided in Section IV.D.6. and that is disputed, the Commission may issue an order to resolve that dispute and may set forth appropriate time frames.
8. For each Agreed To Standard/Benchmark to be implemented in Ohio that has an SBC agreed-upon remedy in Texas, SBC/Ameritech will discuss with the collaborative participants the proposed remedy to be attached to such Agreed To Standard/Benchmark in Ohio. After SBC/Ameritech implement an Agreed To Standard/Benchmark in Ohio, they will also implement (subject to any required Commission approval, which will be timely sought) any remedy to be associated with such Agreed To Standard/Benchmark consistent with the approach used in the Texas collaborative process. If the collaborative participants agree, SBC/Ameritech will refrain from implementing a particular remedy. Regardless of whether or not SBC agrees to remedies (*e.g.*, damages, penalties, and credits) associated with one or more Agreed To Standards/Benchmarks in the Texas collaborative, the Ohio collaborative process is not precluded from considering any proposed remedy or remedies.
9. If any participant in the collaborative process disputes SBC/Ameritech's determination that it is not economically or technically feasible to implement a particular Agreed To Standard/Benchmark in Ohio, either at all or within the 180 day time period, the collaborative participants will collaborate to resolve such dispute in the collaborative process. If any such dispute cannot be resolved through the collaborative process, any participant may ask the Commission to resolve such dispute. In any such dispute that may arise before the Commission, SBC/Ameritech retain the burden of proving to the Commission that it is not economically or technically feasible to implement an Agreed To Standard/Benchmark in Ohio.
10. Ameritech Ohio will provide a report to the Commission Staff on the results of its performance measurements on a quarterly basis, beginning the first full calendar quarter in which Ameritech Ohio has at least one full month of data for one or more performance measurements, and will report with respect to transactions affecting Ohio NECs relative to their provision of service to end users in Ohio. If it is not economically or technically feasible, as discussed in the collaborative process, for Ameritech Ohio to report transactions on that basis, reporting will be done either on an Ameritech-wide or SBC-wide basis as reasonably determined by Ameritech Ohio after consulting with Commission Staff. Performance measurement reports will be provided to NECs in conformance with each NEC's interconnection agreement and will be made available electronically if so requested.

11. For a minimum of one year following the Merger Closing Date, and thereafter on an as-needed basis as determined by Staff, participants in the collaborative process will collaborate to implement any additions, deletions, or changes to the performance measurements, standards/benchmarks, and remedies that are implemented by SBC/Ameritech in Ohio. Any participant may propose such addition, deletion, or change based upon experience with such implemented performance measurements, standards/benchmarks, remedies, or any other factor. If a dispute over any such addition, deletion, or change cannot be resolved through the collaborative process, any participant may ask the Commission to resolve such dispute. The participant proposing the addition, deletion, or change retains the burden of proving that such addition, deletion, or change should be adopted in Ohio.

E. OSS Non-Recurring Charge. Ameritech Ohio will not propose any new non-recurring charges for accessing or utilizing Ameritech's generally available OSS systems for 2 years following the Merger Closing Date.

## V. INFRASTRUCTURE

A. Capital Investment Commitment. SBC/Ameritech will make capital investments in the Ameritech Ohio infrastructure and network located in Ameritech Ohio's service territory as of the date of this Stipulation in a total aggregate amount of not less than \$1.32 billion over the three full calendar years following the year in which the Merger Closing occurs. (e.g., if the Merger Closing Date is 7-1-1999, the three full calendar years will be 1-1-2000 through 12-31-2002).

B. Network Annual Report. During such period, Ameritech Ohio will provide to the Commission Staff an annual report providing a comparison of Ameritech Ohio's Public Switched Network ("PSN") with each of the non-Ohio PSNs owned and operated by SBC as of the Merger Closing Date. This report will provide individually by PSN the investments made and new services introduced. The report will also contain detailed information relating to Ameritech Ohio's operations, by central office, for network switching, advanced services, and broadband capabilities, and will also include information on interoffice transport. The report provided under

this Section V.B. shall be provided on a calendar year basis and shall be provided by April 1 of each year following the calendar year at issue. Ameritech Ohio will also provide the report to OCC, Edgemont, and any other stipulating consumer parties, subject to appropriate confidentiality agreements.

C. ADSL. SBC/Ameritech commit that, for a period of 5 years following the Merger Closing Date, if Asymmetrical Digital Subscriber Line ("ADSL") service is deployed in Ohio, at least 5% of any such deployment, as measured by the number of offices in which ADSL has been enabled and offered as a service, will be in target offices in Cleveland and Columbus (as defined below) and at least 5% will be in target offices in Akron, Youngstown, Toledo, and Dayton (as defined below). SBC/Ameritech further agree that, in the event ADSL is offered as a service to residence customers in any Ameritech Ohio central office, then ADSL service will be offered to residence customers in any other Ameritech Ohio central office where ADSL is subsequently deployed. SBC/Ameritech intend that any deployment of ADSL in Ohio will be done in good faith in a non-discriminatory fashion without excluding any particular area of the Ameritech Ohio service area.

1. The target offices are central offices in large urban areas having relatively large numbers of low income households, which, as of today, are the following 24 central offices:
  - a. CLEV 64, 74, 42, 45, 43, and 63
  - b. SHHG 92 (to be included in the CLEV category)
  - c. CLMB 23, 25, 27, 29, and 44
  - d. AKRN 25, 72, and 78
  - e. BRTN 74 (to be included in the AKRN category)
  - f. DYTN 22, 26, and 27
  - g. TOLD 21, 47, and 72

h. YNTW 74 and 78

These 24 central offices represent approximately 10% of Ameritech Ohio's total number of central offices.

2. This commitment applies to any technology having essentially the same capabilities that could function as a substitute and/or replacement for ADSL technology. This commitment is binding on the aggregate efforts of Ameritech Ohio and/or any SBC/Ameritech affiliate deploying ADSL service within Ameritech Ohio's current service area. This commitment is not intended to apply to any pilot or test programs or initial rollout efforts and, therefore, would not apply until ADSL is deployed in at least 10 central offices within Ohio.
3. SBC/Ameritech agree that, in deploying ADSL in Ohio under this commitment, it will meet the minimum number of target offices as follows:

ADSL DEPLOYMENT

<u>Total Offices</u>	<u>Minimum # of Target Offices</u>
0-9	0
10-14	1
15-24	2
25-34	3
35-44	4
and so forth	

For example, when Ameritech Ohio has deployed ADSL in 15 offices, at least two of those offices must have been target offices.

4. SBC/Ameritech agree that the commitments contained in this Section V.C. shall not be used as a bar to any future claims by a Stipulating Party against SBC/Ameritech alleging potential unlawful discrimination or inadequacy of service.

D. Retail Residential Services Annual Report. To the extent a particular retail residential service is not made available throughout Ameritech Ohio's service area, SBC/Ameritech will provide to the Commission Staff and any Stipulating Party, on an annual basis, a report identifying the geographic areas where such retail residential services are available. The report will provide such information by wire center, and maps will be created to depict the

availability of such services. SBC/Ameritech will provide such annual reports beginning on April 1 of the first calendar year following the Merger and for the next two calendar years.

## **VI. ADDITIONAL PUBLIC BENEFITS**

A. Residential Services Rate Commitment. SBC/Ameritech agree that, until at least January 9, 2002, Ameritech Ohio's rates for Cell 1 core residence service in Ohio (as described in the Alternative Regulation Plan at Para. 12 and Exhibit B) shall be capped at the rates in effect pursuant to Ameritech Ohio's Alternative Regulation Plan as of the date of the Merger Closing; provided, however, if Ameritech Ohio becomes subject to an earnings review pursuant to a case brought under R.C. § 4905.26 or R.C. Chapter 4927, including review of the Alternative Regulation Plan, or a Commission-ordered investigation, Ameritech Ohio may propose an increase or decrease in rates subject to Commission approval.

B. USA (Lifeline) Commitment. SBC/Ameritech agree that Ameritech Ohio shall maintain the USA (Lifeline) program as described in its Alternative Regulation Plan, as modified or interpreted by Commission orders as of the date of this Stipulation (including subsequent rehearing orders relating to then existing orders), until at least January 9, 2002; provided, however, if Ameritech Ohio becomes subject to an earnings review pursuant to a case brought under R.C. § 4905.26 or R.C. Chapter 4927, including review of the Alternative Regulation Plan, or a Commission-ordered investigation, Ameritech Ohio may propose to modify or terminate the USA (Lifeline) program subject to Commission approval.

C. Consumer Late Payment Charge Commitment. Within 30 days of the Commission's entry of a final appealable order in this proceeding approving the Merger, Ameritech Ohio will withdraw its pending request for a consumer late payment charge, without prejudice to it requesting exogenous treatment pursuant to its Alternative Regulation Plan for costs it has incurred to implement the Commission's disconnection policies. Ameritech Ohio will

not propose a consumer late payment charge before it has filed a new proposed alternative regulation plan or when Ameritech Ohio's Alternative Regulation Plan expires, whichever comes first.

D. MTSS Credit Commitment. Commencing within 6 months of the Merger Closing Date, and for a period of 24 months from such commencement date, SBC/Ameritech agree that Ameritech Ohio will increase by 25% the credits payable to residential and business customers under the Minimum Telephone Service Standards ("MTSS"). During such 24 month period, Ameritech Ohio will automatically apply MTSS credits payable to residential customers for installation premises and repair premises appointments missed by Ameritech Ohio.

E. MTSS Recourse Credit Commitment. Commencing within 6 months of the Merger Closing Date, and for a period of 24 months from such commencement date, Ameritech Ohio will increase by 50% the recourse credits payable to NECs from Ameritech Ohio under the MTSS for billing adjustments and waivers NECs provide to their residential and business end users.

F. Consumer Education Fund Commitment. SBC/Ameritech will establish, within 3 months after the Merger Closing Date, a Consumer Education Fund ("CEF") and will make \$0.75 million available to the CEF for disbursement by Ameritech Ohio in each of the three consecutive 12-month periods following the date the CEF is established, for a total of \$2.25 million. The \$2.25 million funding level may be increased by other provisions of this Stipulation. All allocated funds remain available to the CEF for the purposes described herein until they are disbursed. Funds shall be allocated to the CEF by Ameritech Ohio, and the use of the funds will be controlled by the CEF Committee. The Committee shall consist of one voting representative each from Ameritech Ohio, Commission Staff, OCC, Edgemont, and each other consumer group

that is a Supporting Stipulating Party and shall make decisions by majority vote. Tie votes, if any, will be decided by the Commission Staff representative. CEF Committee decisions as to how funds should be distributed and expended are subject to Commission review. At its first meeting, the Committee shall establish rules of governance for the operation of the Committee. No funds shall be disbursed until 30 days after the committee files with the Commission a report of such proposed expenditures. In the first 12-month period, the CEF shall be used to inform and educate consumers in Ohio of their rights concerning customer credits associated with MTSS. Thereafter, the CEF shall be used to inform and educate consumers in Ohio of their rights concerning telecommunications and information services, MTSS, Commission policy, programs such as lifeline programs, and optional payment plans, especially in low income areas. No portion of the CEF funds will be allocated for salaries or administrative fees.

G. Community Technology Fund Commitment. SBC/Ameritech will establish, within 3 months of the Merger Closing Date, a Community Technology Fund ("CTF") and will make \$0.75 million available to the CTF for disbursement by Ameritech Ohio in each of the three consecutive 12-month periods following the date the CTF is established, for a total of \$2.25 million. The \$2.25 million funding level may be increased by other provisions of this Stipulation. All allocated funds remain available to the CTF for the purposes described herein until they are disbursed. Funds shall be allocated to the CTF by Ameritech Ohio, and the use of the funds will be controlled by the CTF Committee. The Committee shall consist of one voting representative each from Ameritech Ohio, Commission Staff, OCC, Edgemont, and any other consumer group that is a Supporting Stipulating Party and shall make decisions by majority vote. Ties votes, if any, will be decided by the Commission Staff representative. CTF Committee decisions as to how funds should be distributed and expended are subject to Commission review as described below.



At its first meeting, the Committee shall establish rules of governance for the operation of the Committee. Additional volunteer committee members, with full voting rights (except the right to choose additional members), can be selected by unanimous agreement of Ameritech Ohio, Commission Staff, OCC, Edgemont, and any other consumer group that is a Supporting Stipulating Party. Except for program design and implementation expenses not to exceed \$50,000 annually as set forth below, no funds shall be disbursed until 30 days after the committee files with the Commission a report of such proposed expenditures. The CTF shall be dedicated to uses which help assure that rural and low income areas in Ohio have access to advanced telecommunications technology. Such uses may include expenditures for computer equipment and associated software, Ameritech tariffed services, Internet access, technical support, program design and implementation expenses not to exceed \$50,000 annually (which amount shall be disbursed to the CTF upon its request, with all expenditures to be reported annually to the Commission), and other associated services and equipment in rural and low income communities. The Commission Staff shall work closely with the CTF committee in implementing this fund and to establish criteria and standards to be used in awarding funds to ensure that it is not administered in a way which has an anti-competitive effect.

H. Community Computer Center Commitment. SBC/Ameritech will provide funding of \$500,000 in the first year following the Merger Closing, and \$250,000 per year for two additional years thereafter, to continue their support of the Community Computer Center commitment created by Ameritech Ohio's Alternative Regulation Plan. Up to \$30,000 of the amount available in each 12 month period may be used to assist in program design and implementation, which amount shall be disbursed to the Ohio Community Computer Center Network ("OCCCN") upon its request. The remaining amounts shall be disbursed for the creation

of new and the support of existing community computer centers. Such disbursements shall be determined solely by the board of the OCCCN. The OCCCN will provide an annual report to the Commission, subject to audit. All funds described herein shall be expended by SBC/Ameritech and remain available to the OCCCN until disbursed.

I. Charitable Contributions Commitment. SBC/Ameritech, either directly or through their foundations, will make philanthropic and community contributions in Ohio in the aggregate of more than \$2.0 million in each of the three consecutive 12 month periods following the Merger Closing Date. Ohio-based employees of SBC/Ameritech will continue to have input regarding the beneficiaries of these contributions.

J. Marketing Practices Commitment. SBC/Ameritech agree that any of their companies operating as public utilities in Ohio, or their agents, will refrain from engaging in marketing practices which are fraudulent, deceptive, or misleading.

## VII. IN STATE PRESENCE

A. Ohio Headquarters Commitment. For not less than 5 years following the Merger Closing Date, SBC/Ameritech agree to maintain a state headquarters in Ohio that is staffed sufficiently to at least maintain Ameritech Ohio's current local presence with government entities and community organizations.

B. Ameritech Ohio Employee Commitment. SBC/Ameritech agree that, at the end of 2 years following the Merger Closing Date, the number of full-time equivalent employees of Ameritech Ohio will be more than the greater of 1) the number of such employees as of the date the Commission enters a final appealable order approving the Merger, or 2) the number of such employees as of the Merger Closing Date. SBC/Ameritech agree to maintain and improve the expertise and knowledge of Ameritech Ohio's employees who deal directly with end-user customers and NECs.

C. Customer Service Employee Reports. For a period of 2 years following the Merger Closing Date, Ameritech Ohio shall maintain records of the number of its employees engaged in end user customer contact positions and NEC-interface staffing as described in Section IV.C.2. Ameritech Ohio will provide and report the number of such employees to the Commission Staff and OCC as of the dates 6 months, 12 months, and 24 months following the Merger Closing Date. This report will disaggregate the number of employees into marketing, non-marketing, and other appropriate categories.

D. Commitment to Provide Local Competition in Four New Markets.

1. Following the Merger Closing Date, and subject to the terms and conditions set forth in Sections VII.D.2. and VII.D.3., SBC/Ameritech will offer basic local exchange service to both residential and business customers at reasonable rates in the following 4 markets where Ameritech Ohio is currently not the incumbent local exchange carrier ("ILEC") (the "Ohio Competitive Services"):
  - a. Cincinnati - to include the Cincinnati exchange area that is currently served by Cincinnati Bell;
  - b. Lebanon/Mason - to include the Lebanon and Mason exchange areas northeast of Cincinnati that are currently served by United/Sprint;
  - c. Hudson/Twinsburg - to include the Hudson, Twinsburg and Northfield exchange areas south of Cleveland that are currently served by Western Reserve/AllTel; and
  - d. Delaware - to include the Delaware and Cheshire Center exchange areas north of Columbus that are currently served by GTE.

SBC/Ameritech shall determine in their sole discretion, subject to the rules and regulations of the Commission and the terms and conditions set forth in Sections VII.D.2. and VII.D.3., the manner in which they provide the Ohio Competitive Services in each of these markets.

2. SBC/Ameritech's commitment to provide the Ohio Competitive Services in a specified market shall become effective: i) upon the Commission's

approval, within 2 years of filing, of SBC/Ameritech's certification application; ii) upon the Commission's approval of appropriate tariffs filed by the serving entity; and iii) upon SBC/Ameritech's obtaining a Commission-approved interconnection agreement with the ILEC serving that specified market that is fully compliant with Section 251 of the Telecommunications Act of 1996 and that is reasonably comparable to the agreements that Ameritech Ohio has with NECs, specifically:

- a. SBC/Ameritech must have access to the same unbundled network elements and to the same collocation arrangements that Ameritech Ohio has been required to provide to NECs, excluding the promotional collocation provisions set forth in Section IX.C.4. below; and
  - b. SBC/Ameritech must have electronic ordering capability (or reasonable substitutes), and the ILEC must provide sufficient capacity to handle the expected volume of orders.
3. SBC/Ameritech's commitment to provide the Ohio Competitive Services will be in accordance with the following:
- a. SBC/Ameritech will file with the Commission a request for all required certifications no later than 30 days following the Merger Closing Date.
  - b. SBC/Ameritech will make a formal request for an interconnection agreement with each affected ILEC no later than 30 days following the Merger Closing Date. SBC/Ameritech agree to negotiate in good faith with each affected ILEC and to seek arbitration of any issues that cannot be resolved under the negotiation process.
  - c. For purposes of the time commitments made in Sections VII.D.3.e. through VII.D.3.g. below, inclusive, the "Start Date" for each market is the latest of:
    - (A) the date upon which, for that market, the Commission issues an order granting SBC/Ameritech's certification application and approves appropriate tariffs filed by the serving entity;
    - (B) the date upon which, for that market, the Commission issues an order approving an interconnection agreement between SBC/Ameritech and the affected ILEC meeting the conditions set forth above in Section VII.D.2.; or
    - (C) 10 months from the Merger Closing Date.

- d. Consistent with such certification obtained pursuant to this Section VII.D.3., the serving entity will file all appropriate tariffs for the service it provides in these new markets. Upon receiving all necessary authorization to use municipal rights-of-way, which the serving entity will seek in a timely manner, the serving entity will file its final tariffs. In the event the serving entity is unable to obtain such rights-of-way authorization, SBC/Ameritech will propose a comparable alternative market within 30 days of the denial of such rights-of-way authorization.
- e. SBC/Ameritech commit that they will commence the offering of service in some portion of each market no later than 4 months after the Start Date for each market.
- f. SBC/Ameritech commit that the services offered will be made generally available to customers within each market no later than 16 months after the Start Date for each market.
- g. SBC/Ameritech commit that they will offer service at least partially on a facilities basis in each of the 4 markets no later than 28 months after the Start Date for each market (the use of the ILEC's unbundled elements together with SBC/Ameritech's own equipment shall constitute facilities based service).
- h. SBC/Ameritech commit that they will offer residential service in each market for at least 36 months. At any time after SBC/Ameritech have offered such service for 36 months in a market, SBC/Ameritech may at its discretion request, subject to Commission approval, to offer service in any market on a more limited basis up to and including withdrawal from the market.

## VIII. QUALITY OF SERVICE

A. Service Quality Commitment. Ameritech Ohio commits to improve its service quality, by meeting or exceeding the standards as set forth in Section XIII.A., or, in the alternative, to pay the amounts specified in Section XIII.A. Nothing in this Stipulation shall prevent the Commission or Commission Staff from taking any action to address any Ameritech Ohio service quality or customer service problems which may arise while this Stipulation is in effect.

B. Service Quality Reporting. Commencing the first day of the first month that starts at least 6 months after the Merger Closing Date and for a period of 3 years after such commencement date, Ameritech Ohio, on a quarterly basis, will provide the Commission Staff, OCC, and Edgemont with an oral review and, contemporaneously therewith, a written report (consistent with MTSS Rule 18 and the Stipulation entered into in Case No. 98-191-TP-COI), describing Ameritech Ohio's monthly performance with respect to the following:

1. The number of installation orders and the number of such orders missing the MTSS 5-day, 10-day, and 15-day installation intervals;
2. The number of installation premises appointments arranged, and the number of such appointments missed by Ameritech Ohio;
3. The number of out-of-service trouble reports, and the number of those missing the MTSS 24-hour clearance standard;
4. The number of premises repair appointments and non-premises repair commitments arranged, and the number of such appointments/commitments missed by Ameritech Ohio; and
5. The number of times that credits Ameritech Ohio would otherwise owe to end users as a result of missing one of the above standards are excused as a result of the events specified in O.A.C. 4901:1-5-18. Where applicable, such results will be broken down by each of the exception categories in O.A.C. 4901:1-5-18.

C. Non-Telephone Households Studies. Commencing within 3 months following the Merger Closing Date and ending within 15 months following such commencement date, Ameritech Ohio will complete a series of studies to determine the various causes of non-telephone households in Ameritech Ohio's current service territory. This research will be conducted by Ameritech Ohio in conjunction with the substantial involvement of the Commission Staff, OCC, Edgemont, and any other consumer group that is a Supporting Stipulating Party, which involvement will begin within 30 days following the Merger Closing Date. Upon request of a consumer group that is a Supporting Stipulating Party, Ameritech Ohio will pay up to \$5,000

in total to one or more such groups for their use in obtaining an expert or experts to assist in the preparation, review, and analysis of this non-telephone household research. The studies will be designed to identify valid findings and conclusions as to the causes of non-telephone households in Ameritech Ohio's current service territory. Once the reasons for non-telephone households have been identified, Ameritech Ohio, in conjunction with the Commission Staff, OCC, Edgemont, and any other consumer group that is a Supporting Stipulating Party will develop potential short and long-term practices and policies designed to decrease the number of non-telephone households in Ameritech Ohio's current service territory. Ameritech Ohio will file a report with the Commission within 30 days after the conclusion of such studies as to those practices or policies it has elected to implement.

## **IX. CARRIER-TO-CARRIER ACTIVITIES**

A. Alternative Dispute Resolution. SBC/Ameritech and Commission Staff will implement the following alternative dispute resolution ("ADR") process designed to resolve carrier-to-carrier disputes, including interconnection agreement related disputes, before they become formal complaints, and will adhere to the following ADR guidelines and procedures:

1. SBC/Ameritech agree that any dispute resolution process contained in any of Ameritech Ohio's existing interconnection agreements continues to apply and will be implemented by Ameritech Ohio in accordance with the agreement. SBC/Ameritech agree that the applicable time frame for the dispute resolution process begins on the date when either party to a dispute notifies the other party and the Commission Staff in writing that it is seeking dispute resolution pursuant to an interconnection agreement. SBC/Ameritech will designate a single point of contact to whom such notice will be sent. Following completion or failure of a dispute resolution process pursuant to an interconnection agreement, should either party bring the dispute to the Commission, SBC/Ameritech will not argue that the involved dispute is not properly before the Commission or that the other party must follow additional procedures prior to the Commission resolving the dispute. In other words, after the applicable period runs, a party may proceed with an informal mediation process (as outlined below) or commence a formal complaint before the Commission.

2. If resolution is not attained upon completion of the dispute resolution process contained in an interconnection agreement or, for those disputes not subject to an interconnection agreement, SBC/Ameritech commit to the following:
  - a. SBC/Ameritech commit to the participation of Commission Staff in any dispute resolution process, should a party to the dispute so desire. If a party chooses to involve the Commission Staff in a mediation, it shall submit a written request for mediation to the Chief of the Telecommunications Section, Legal Department, with a copy to the Chief of the Telecommunications Division, Utilities Department, and to other parties involved in the dispute.
  - b. The written request shall include whether the dispute is service affecting or demonstrate that the dispute has exceptional time-sensitive implications. If the dispute is service affecting or has exceptional time-sensitive implications, the written request shall set forth time requirements for resolution, and the time frames set forth in this Section IX.A.2. shall be shortened by agreement of parties to accommodate the requested time requirements, which may not be less than 3 business days.
  - c. SBC/Ameritech will attempt to resolve multi-NEC issues through consolidated mediations.
  - d. SBC/Ameritech will have a person(s) of authority at the dispute resolution table such that a reasonable resolution could be agreed to at the table. In the event such representative of SBC/Ameritech is without the authority to agree to a particular item, SBC/Ameritech commit to a response turnaround of no more than 2 business days.
  - e. Any information to be shared with the other party or parties prior to the beginning of a mediation session, must be faxed to Staff and the other party or parties at least 24 hours prior to the next mediation session.
  - f. SBC/Ameritech will have one contact person for all contact related to a given dispute. SBC/Ameritech will attend a face-to-face meeting with the disputing party or parties and Commission Staff within one week of the request for mediation.
  - g. SBC/Ameritech commit that, in the event it is not possible to resolve the issue with one session, they will agree to a meeting schedule and have all relevant decision makers meet at the Commission with the other party or parties during the scheduled times.



- h. SBC/Ameritech agree that service to end-user customers shall not be disrupted or otherwise affected by the pendency of an informal mediation process.
  - i. SBC/Ameritech will prohibit their regulatory, legal, and/or AIIS personnel from disclosing to Ameritech Ohio retail/marketing staff information regarding customers identified during the mediation process concerning the dispute being mediated. If necessary, SBC/Ameritech regulatory, legal, and/or AIIS personnel may contact the customer regarding service or billing-related issues after they have first notified the opposing party or parties in mediation to discuss the need for such contact and to give such party or parties the opportunity to participate in such contact.
  - j. SBC/Ameritech will reduce each resolved issue to writing within 5 business days of the resolution. One of the other parties may also agree to reduce the agreement to writing. All subsequent responses/replies will be due within 3 business days. If the parties have not reduced the resolved issue to writing within 14 calendar days, they shall notify the Commission Staff within 5 business days, and any party may request to resume the mediation. SBC/Ameritech further commit that once agreed, these issues will be binding upon the parties; a copy of each agreement shall be submitted to Staff upon execution. If an agreement reached requires an amendment or addendum to a previously-approved interconnection agreement, SBC/Ameritech commit to file the amendment or addendum for Commission approval within 14 calendar days of reaching the agreement.
  - k. Communications during the mediation process are confidential and subject to Ohio Revised Code Chapter 2317. SBC/Ameritech will facilitate application of Ohio Revised Code Chapter 2317 to the mediation process, including execution of a reasonable mediation agreement (provided that the other mediating party also agrees to do so as a condition to participating in the mediation process).
- 3. Once issues are resolved by the parties, should there be another NEC requesting resolution of the same issue(s), with substantially similar factual circumstances and terms, conditions and other contract provisions that are not materially different, the arrangements arrived at through a prior dispute resolution process will be made available to that "new" party.
  - 4. This process is not intended and shall not be used as a substitute for resolving disputes regarding the negotiation of interconnection agreements under Sections 251 and 252 of the Telecommunications Act of 1996.

B. MTSS Recourse Provision Amendments. Ameritech Ohio will work in an expeditious fashion to finalize its tariff for MTSS recourse provisions and will work with NECs to amend their interconnection agreements to incorporate MTSS recourse provisions.

C. Promotional Carrier-To-Carrier Discounts. As an additional incentive for local residential telephone service competition, Ameritech Ohio will offer promotional carrier-to-carrier discounts on services used to provision residential services subject to the following terms and conditions:

1. Unbundled Elements Promotional Discounts.

- a. Ameritech Ohio will offer promotional discounted rates on unbundled loops used in the provisioning of residential service for an "Offering Window" period, which begins on the Merger Closing Date and ends at the earliest of the following:
  - (A) 4 years following the Merger Closing Date;
  - (B) at any time after 1 year following the Merger Closing Date, if the result of the Competitive Line Growth Test, as described in Section IX.C.3., is that competitive line growth is equal to or greater than 200,000 residential access lines; or
  - (C) at any time after 3 years following the Merger Closing Date, if the result of the Competitive Line Growth Test, as described in Section IX.C.3., is that competitive line growth is equal to or greater than 115,000 residential access lines, and if Ameritech or one of its affiliates has received all necessary authority to offer in-region interLATA services in Ohio.
- b. The Offering Window for the promotional discounted rate shall be extended for an individual NEC under the following circumstances. Within 15 days of the Commission's initial order approving the Merger, Ameritech Ohio will review all collocation requests pending as of the date of such order to identify those requests in which NECs have verified that the requested collocation space will be used to serve residential customers through unbundled loops. Ameritech Ohio agrees that for any such verified request pending at the time of the review, its objective will be to complete the request within 90 days of the Commission's

initial order approving the Merger (the "Objective"). For any NEC where the Objective is not met for one or more central offices, the Offering Window shall be extended for that NEC as to that central office or offices by the amount of time that Ameritech Ohio missed the Objective.

- c. Unbundled loops used in the provisioning of residential service in Ohio that are ordered during the Offering Window with a NEC-requested installation date of no later than 30 days after the close of the Offering Window will receive the promotional discounted rate during the promotional period. Unbundled loops ordered or in service prior to the start of the promotional period, or ordered after the end of the promotional period, will not be eligible for the promotional discounted rates. The promotional period will be a period of 1) 36 months from the date such unbundled loop is installed and operational, or 2) for as long as the loop remains in service at the same location and for the same NEC, whichever period is shorter.
- d. During the promotional period, Ameritech Ohio will offer the following promotional discounted rates on unbundled loops used in the provisioning of residential service:

Residence Unbundled Loop Promotional Discounted Rates

<u>Geographic Area</u> <sup>3</sup>	<u>Discounted Rate</u>
Access Area B	\$5.34
Access Area C	\$5.34
Access Area D	\$5.34

- e. Before being eligible for any such promotional discounted rates, a NEC must agree to the following conditions and qualifications:
  - (A) They shall apply only to unbundled loops used in the provisioning of residential services;
  - (B) A maximum of 24,000 unbundled loops will be offered at the discounted rate in each of five geographic areas for all NECs combined (first come, first served). The geographic areas will be defined as the areas currently associated with the: i) 216/440 area codes; ii) 614/740 area codes; iii) 330 area code; iv) 419 area code; and v) 513/937 area codes;
  - (C) Any one NEC is limited to purchasing a maximum of 12,000 unbundled loops per geographic area;

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<sup>3</sup> Access Areas are set forth in Ameritech Ohio's PUCO Tariff No. 20.

- (D) The promotional discounted rates will not be available on unbundled loops purchased or used as part of a combination with Ameritech Ohio's local switching or the functions and features associated with that switching. The promotional discounted rates will be available if the NEC itself combines the unbundled loop with dedicated transport, or if Ameritech Ohio is ordered to, or agrees to, provide a combination of unbundled loop and dedicated transport; and
- (E) NECs shall, on a quarterly basis, certify to SBC/Ameritech and the Commission that they are using the unbundled loops provided at these promotional discounted rates solely for the provision of residential services. SBC/Ameritech reserve the right to hire an independent third-party auditor to perform all necessary audits and inspections needed to assure that the unbundled loops provided at these promotional discounted rates are used solely for the provision of residential services. NECs that opt to take advantage of the promotional discount rates agree to cooperate in the performance of such audits and inspections, which will be paid for by SBC/Ameritech. Where any NEC is found by the Commission to have violated these conditions and qualifications for any unbundled loops, it shall no longer be eligible to receive the promotional discounted rate on such unbundled loops and, on a prospective basis, for any unbundled loops ordered or installed after such finding. Audit information will be restricted to SBC/Ameritech regulatory, legal, and/or AIIS personnel, and SBC/Ameritech will prohibit those personnel from disclosing audit-related information with Ameritech Ohio retail/marketing personnel.

## 2. Resold Services Promotional Discounts

- a. Ameritech Ohio will offer enhanced promotional discounts on services resold to NECs for residential customers for an "Offering Window" period, which begins 30 days following the Commission's entry of a final appealable order approving the Merger and ends at the earliest of the following:
  - (A) 3 years following the date on which Ameritech Ohio begins to offer such promotional discounts; or
  - (B) If, at any time after 1 year following the Merger Closing Date, the result of the Competitive Line Growth Test described in Section IX.C.3., is that competitive line

growth is equal to or greater than 200,000 residential access lines.

- b. Resold services used in the provisioning of residential service that are ordered during the Offering Window with a NEC-requested installation date of no later than 30 days after the close of the Offering Window will receive the promotional price during the promotional period. Resold services ordered or in service prior to the promotional period, or placed in service after the end of the promotional period, will not be eligible for the promotional prices. The promotional period will be a period of 1) 36 months from the date such resold service is installed and operational, or 2) for as long as the resold service remains in service at the same location with the same telephone number and for the same NEC, whichever period is shorter.
  - (A) For the period commencing 30 days following the Commission's entry of a final appealable order approving the Merger and ending 12 months after such commencement date, the residential resale discount rate in effect during such 12-month period will be the standard resale discount multiplied by a factor of 1.506 (*i.e.*, the current standard resale discounts of 20.29% and 21.25% would be 30.56% and 32%, respectively);
  - (B) During the second 12 month period, the standard resale discount rate in effect at that time will be multiplied by a factor of 1.25 (*i.e.*, the current standard resale discounts of 20.29% and 21.25% would be 25.36% and 26.56%, respectively); and
  - (C) During the remainder of any promotional period, the standard resale discount rate in effect at that time will be multiplied by a factor of 1.10 (*i.e.*, the current standard resale discounts of 20.29% and 21.25% would be 22.32% and 23.38%, respectively).

As to any such residential resold line, the promotional rate shall only apply to those periods when such rates are in effect. For example, as to any resold service placed in service 6 months after the Commission's entry of a final appealable order approving the Merger, the promotional price will be in accordance with IX.C.2.b.(A) for the first 7 months, IX.C.2.b.(B) for the next 12 months, and IX.C.2.b.(C) for the remaining 17 months.

- c. Ameritech Ohio reserves the right to suspend these promotional discount rates at such time, if any, as the Merger Agreement has been terminated.

3. Competitive Line Growth Test

- a. The Competitive Line Growth Test is met if Competitive Line Growth is 115,000 residential access lines or 200,000 residential access lines, as applicable.
- b. Competitive Line Growth shall consist of the sum of the following amounts, determined as of the measurement date, for Ameritech Ohio's service territory as of the Merger Closing Date:
  - (A) Ameritech Ohio's residential service access lines resold by a non-affiliated NEC;
  - (B) Ameritech Ohio's unbundled loops provided to non-affiliated NECs for service to residence premises;
  - (C) E-911 residence listings for residential service not provided by Ameritech Ohio and not included in IX.C.3.b.(A) and (B); and
  - (D) directory residence listings for residential service not provided by Ameritech Ohio and not included in IX.C.3.b.(A), (B) and (C).

The intention in (A) through (D), inclusive, is not to double-count any residential access line.

- c. Ameritech Ohio will report that it has attained Competitive Line Growth of 115,000 or 200,000 residential access lines, as applicable, and passed the Competitive Line Growth Test by filing a report with the Commission demonstrating such passage. The test will be deemed met either: i) upon the issuance of a Commission order finding that the test has been met; or ii) if no order is issued within 60 days after such filing.

4. Promotional Collocation Provisions

- a. SBC/Ameritech will make available to NECs in Ohio meeting the criteria set forth below and agreeing to the terms and conditions set forth below the following promotional provisions with respect to collocation.
- b. The promotional provisions for collocation are only available to a NEC within a central office where: i) that NEC certifies that it

intends to use collocation space in that central office in accordance with the provisions of Section IX.C.4.c. below; and ii) that NEC is, at the time it requests the collocation, not ineligible for the promotional provisions pursuant to Section IX.C.4.f. below.

- c. After the collocation space for a NEC has been installed in a central office for at least 8 months, such NEC shall continue to be eligible for the promotional provisions contained in Section IX.C.4.j.(D) within that central office only if, within that central office, the number of unbundled loops purchased by that NEC to serve business customers is no greater than 80% of the total number of unbundled loops purchased by that NEC in that central office. The number of unbundled loops shall be measured on an equivalent line basis.
- d. For each collocation arrangement for which a NEC has received any of the promotional provisions set forth in Section IX.C.4.j., the NEC shall, on a quarterly basis beginning the first full calendar quarter commencing at least 3 months after a NEC begins to use these promotional collocation provisions, certify to SBC/Ameritech and the Commission Staff that the terms and conditions set forth in Section IX.C.4.c. related to the promotional collocation provisions are being met. In the event a NEC is found, either by its certification or by the audit process described in Sections IX.C.4.e. below, to be not in compliance with Section IX.C.4.c. for any central office after such NEC has been collocated in that central office for at least 8 months, the full, standard rates and other standard terms and conditions applicable to the collocation space in such central office would apply retroactively and any amounts due must be paid within 10 days.
- e. SBC/Ameritech reserve the right to hire an independent third-party auditor to perform all necessary audits and inspections needed to verify the NEC certification provided for in Section IX.C.4.d. above. NECs that opt to take advantage of the promotional collocation provisions must agree to cooperate in the performance of such audits and inspections, which will be paid for by SBC/Ameritech. If the independent third-party auditor finds that a NEC's compliance verification described in Section IX.C.4.d. above is inaccurate with respect to one or more central offices, SBC/Ameritech and the NEC will meet and confer to determine the reason for the inaccuracy. Audit information will be restricted to SBC/Ameritech regulatory, legal, and/or AIIS personnel, and SBC/Ameritech will prohibit those personnel from disclosing audit-related information to Ameritech Ohio retail/marketing personnel.

- f. If, in the audit process described above in Section IX.C.4.e., a NEC's compliance verification is found to be inaccurate due to willful or grossly negligent conduct on the part of the NEC, then that NEC's entitlement to these promotional collocation provisions for any new collocation request shall be permanently revoked. Additionally, if at any time a NEC is found, either by its certification or by the audit process described above, to be not in compliance with Section IX.C.4.c. in 50% or more of the central offices in which such NEC has received any of the promotional collocation provisions set forth in Section IX.C.4.j., then that NEC's entitlement to these promotional collocation provisions for any new collocation request shall be suspended, until such time that one or more such offices are brought into compliance with Section IX.C.4.c. such that the 50% standard is met.
- g. The promotional provisions for collocation space shall begin on the date 30 days following the Commission's entry of a final appealable order approving the Merger, shall terminate 3 years following the Merger Closing Date, and shall be applicable retroactively to those collocation requests for which initial payment was received on or after the date of this Stipulation. Notwithstanding the 3 year limitation, NECs that received or ordered collocation arrangements from Ameritech Ohio based on these promotional collocation provisions shall continue to be served under the promotional collocation provisions until the NECs and Ameritech Ohio mutually agree to modify or terminate those collocation arrangements.
- h. For purposes of determining whether the NEC is eligible for these promotional collocation provisions, the measurement of the NEC purchased loops within a central office shall include any affiliates of the NEC providing local telecommunications service within the same central office.
- i. The promotional collocation provisions are only available where space is available in those areas of Ameritech Ohio's central offices that are engineered for equipment of the type used in collocation space. In order to take advantage of the promotional collocation provisions, a NEC must provide Ameritech Ohio with reasonable collocation space forecasts.
- j. Promotional Terms and Conditions for Collocation
  - (A) SBC/Ameritech agree to a 90-day standard installation interval for a qualifying NEC collocation request measured from the date an initial collocation request is submitted to Ameritech Ohio. Such 90-day standard interval is subject



to Ameritech Ohio receiving any pre-paid amounts due within 30 days after said initial request or 20 days after SBC/Ameritech notify the NEC that the request can be satisfied, whichever is later.

- (B) SBC/Ameritech will provide collocation space without the requirement for SBC/Ameritech to construct a caged enclosure. In such cases, the NEC shall be responsible for deciding whether to construct an enclosure for the space, subject to SBC/Ameritech's specifications.
- (C) SBC/Ameritech will provide NECs a minimum collocation space option of 50 square feet, with reduced total charges based on the equipment and square footage requested.
- (D) SBC/Ameritech will reduce the current amount of collocation charges which must be prepaid by the NEC to \$7,000 for collocation space of between 50 and 75 square feet, inclusive, and to \$10,000 for collocation space greater than 75 square feet. The balance of any prepaid amounts that would otherwise be due, based on standard rates and charges for collocation space, shall be paid by the NEC over 36 months with 8% interest.
- (E) SBC/Ameritech further agree that, in the event the requested collocation space is not made available within 90 days of the submission of an initial request, due solely to SBC/Ameritech's actions or inaction, 50% of the prepaid amount shall be refunded to the NEC. In the event the requested collocation space is not made available within 120 days of the submission of an initial request due solely to SBC/Ameritech's action or inaction, the remaining 50% of the prepaid amount shall be refunded to the NEC. No refund shall be due if SBC/Ameritech's failure to meet the time period for making the collocation space available was caused in whole or in part by any force or reason beyond the reasonable control of SBC/Ameritech including but not limited to Acts of God, strikes, or war.

D. NEC Confidential Information. SBC/Ameritech will comply with their obligations under Commission and FCC rules and regulations, applicable interconnection agreement provisions, requirements in the Telecommunications Act of 1996, and their Codes of Business Conduct dealing with non-disclosure of a NEC's confidential and proprietary business

and customer information acquired in the course of providing services to NECs, including, without limitation, information regarding a NEC request for a Customer Service Record ("CSR").

E. CSR Mediation. To the extent SBC/Ameritech and Time Warner Telecom are unable to resolve their previously-mediated dispute regarding CSRs by reducing to writing an agreement, within 15 days of their signing of this Stipulation, they agree to mediate such dispute, with the Commission Staff, under the ADR procedure set forth in Section IX.A.2. of this Stipulation as an "exceptional time sensitive" dispute.

F. Non-Recurring Charges Payment Option. As an additional incentive for local residential telephone competition, Ameritech Ohio will offer a promotional 18-month installment payment option to NECs for the payment of non-recurring charges associated with the purchase of unbundled network elements used in the provision of residential services and the resale of services used in the provision of residential services. This promotional 18-month installment option will begin on the date 30 days following the Commission's entry of a final appealable order approving the Merger and will terminate 3 years following the Merger Closing Date. No interest will be assessed on the remaining balance during the 18 month period as long as the NEC continues to purchase the residential unbundled network element or residential resold service. In the event the NEC does not purchase the residential unbundled network element or residential resold service for the entire 18 month payment period, any remaining non-recurring charge balance shall immediately be due and payable when the service is terminated. Unless an interconnection agreement by its terms specifies otherwise, interest at a rate of 8% per annum will be assessed on any amounts that become immediately due and payable and are not paid within 30 days of same. If a NEC disputes its obligation to make payment when due, it will place the

amount due in an escrow account earning a rate of at least 8% interest, pending a final resolution of the dispute.

G. Bona Fide Request Fees. As an additional incentive for local residential telephone competition, Ameritech Ohio agrees to waive the Bona Fide Request ("BFR") initial processing fee associated with a BFR submitted by a NEC under the following condition: the NEC submitting the BFR must have, for the majority of the BFR requests it has submitted to Ameritech Ohio during the preceding 12 months, completed the BFR process, including the payment of any amounts due. The BFR initial processing fee will be waived for a NEC's first BFR following the Merger Closing Date and for a NEC that has not submitted a BFR during the preceding 12 months. For clarification, the BFR initial processing fee is currently \$2,000. This BFR fee waiver will be offered for a period of 3 years following the Merger Closing Date.

H. Enhanced Local Number Portability Deployment. Upon the Commission's entry of a final appealable order approving the Merger, Ameritech Ohio will begin implementing in Ohio the "Transition Mechanism" 10-digit trigger capability relating to Local Number Portability ("LNP"), and to complete such implementation in no less than the Columbus MSA by April 1, 2000, and by July 1, 2000 in all other Ameritech Ohio central offices where Ameritech Ohio is required to provide LNP. If Ameritech Ohio deploys LNP in an office after April 1, 2000, pursuant to a BFR, LNP will be deployed with the "Transition Mechanism" 10-digit trigger capability. These implementation dates are contingent on SBC/Ameritech obtaining timely delivery of the necessary "Transition Mechanism" 10-digit trigger capability from vendors. Ameritech Ohio's obligation to implement the "Transition Mechanism" 10-digit trigger capability as set forth in this Section IX.H. will not terminate should the Joint Applicants withdraw their Joint Application.

I. Interim Local Number Portability Provisioning. SBC/Ameritech will make available to NECs that are Stipulating Parties that mutually agree to the terms and conditions therein, the interim agreement set forth in the letter of November 25, 1998 from Warren Mickens, AIIS Vice President, Customer Operations, to Mark Titus, Time Warner Telecom, Regional Vice President, relating to the operations and processing of Time Warner orders for Local Number Portability. until such time as the "Transition Mechanism" 10-digit trigger capability is implemented in Ameritech Ohio's service area. SBC/Ameritech will make said interim agreement available to any NEC that mutually agrees to the terms and conditions contained therein, provided that the NEC's interconnection agreement does not contain provisions addressing the interim agreement issues. For any NEC whose interconnection agreement does address the interim agreement issues, SBC/Ameritech will entertain requests for amending such interconnection agreement. Any such amendments shall be subject to Commission approval.

J. Structure Access Intervals. Within 6 months following the Merger Closing Date, Ameritech Ohio will review whether it can reduce the average time it takes to issue a pole attachment permit, to install a third party's cable in Ameritech Ohio's conduit, or to provide access to its ducts and rights-of-way. Ameritech Ohio will report to the Commission within 30 days after the conclusion of its review whether it can reduce the average time to perform said acts.

K. Pole Attachment and Conduit Records. SBC/Ameritech commit that Ameritech Ohio will reduce the average time elapsed between the date a request is made to review pole attachment and conduit records and the date such records become accessible for review by 10% within 6 months after the Merger Closing Date.

#### **X. BOOKS AND RECORDS**

SBC/Ameritech will provide Commission Staff access to books and records of any affiliate that engages in transactions with any SBC/Ameritech affiliate that operates in Ohio as a

public utility. Where SBC/Ameritech are not able to provide access to relevant books and records in Ohio, they agree to pay reasonable and necessary travel expenses of the Commission Staff in order to examine such relevant books and records in an out-of-state location when such payment is authorized in writing by one or more Commissioners.

## **XI. AFFILIATES**

A. Within 14 days of the Commission's entry of a final appealable order approving the Merger and prior to the Merger Closing Date, SBC agrees to request withdrawal of service, effective upon the Merger Closing Date, of SBC's Ohio landline interexchange affiliate, Southwestern Bell Communications Services, Inc. Within 3 days of the Merger Closing Date, SBC/Ameritech agrees to withdraw certification requests by Ameritech Communications, Inc. ("ACI") now pending in Case Nos. 96-327-CT-ACE and 96-658-TP-ACE.

B. The Joint Applicants commit that at least 90 days prior to applying for authority under Section 271 of the Telecommunications Act of 1996 to offer in-region interLATA service in Ohio, SBC/Ameritech's Section 272 affiliate will request from the Commission all required intrastate certifications for such affiliate.

C. The Joint Applicants commit that at least 90 days prior to applying for authority under Section 271 of the Telecommunications Act of 1996 to offer in-region interLATA service in Ohio, Ameritech Ohio will file in PUCO Case No. 96-702-TP-COI information concerning its compliance with the Section 271 Checklist.

## **XII. MARKET POWER**

A. SBC/Ameritech will measure competition and market power for Ameritech Ohio and all competitors in Ohio telecommunication markets.

1. Ameritech Ohio will provide the Commission Staff with an initial assessment of competition and market power for Ameritech Ohio no later than 90 days following the Merger Closing Date. This initial assessment

will be based on data for the most recent readily-available period that ends no later than the day before for the Merger Closing Date.

2. Ameritech Ohio will provide additional assessments no later than 90 days after the end of a calendar year beginning with the first calendar year following the date of the initial assessment and continuing for a period of 7 years; provided that such assessments will only be provided for 4 years if Ameritech Ohio passes the Competitive Line Growth Test set forth in Section IX.C.3. at 200,000 residential access lines within 4 years of the Merger Closing.

B. A description of the approach to be used is as follows:

1. The goal of a competitive market power assessment of Ameritech Ohio is to capture the market power of Ameritech Ohio in relation to other competitors in Ameritech Ohio's current service territory. In so doing, the market power assessment should sufficiently ascertain:
  - a. Ameritech Ohio's relative position in the relevant markets (*e.g.*, local exchange, intraLATA toll, interexchange, wireless);
  - b. The competitive alternatives and substitutes a customer may have; and
  - c. The rate at which competitive alternatives are developing/growing.
2. SBC/Ameritech will work with Staff and provide the appropriate models, updated on a periodic basis, which would measure and/or determine for the relevant markets:
  - a. Availability of NEC services as alternatives (resale and UNE/facilities based):
    - (A) the location of NEC networks (such as equipment, switches, fiber, facilities);
    - (B) the number of business and residential customers and access lines (or access line equivalents) that are and can be served by their networks;
    - (C) the revenues their customers generate;
    - (D) the NECs' growth rate;
  - b. Availability of wireless alternatives:
    - (A) the location of the wireless networks (such as equipment, switches, towers);

- (B) the number of business and residential customers and equivalent lines that are and can be served by their networks;
    - (C) the revenues their customers generate;
    - (D) the wireless growth rate;
    - (E) extent to which these services are competitive alternatives to landline local service;
  - c. Availability of cable access and other non-SBC/Ameritech alternatives:
    - (A) the location of the cable access and other non-SBC/Ameritech alternatives available that are or can be upgraded to support telephony (equipment, switches, facilities);
    - (B) the number of business and residential customers and equivalent lines that are and can be served by their networks;
    - (C) the telecommunications revenues their customers generate;
    - (D) the growth rate;
    - (E) extent to which these services are competitive alternatives to landline services;
  - d. Availability of SBC/Ameritech's services:
    - (A) the number of business and residential customers and access lines (or access line equivalents) that are served by the SBC/Ameritech network;
    - (B) the revenues the customers generate;
    - (C) the SBC/Ameritech growth rate.
3. SBC/Ameritech commit to provide all the appropriate SBC/Ameritech data (retail, resale, and UNE) to support such an assessment. In addition, SBC/Ameritech will systematically collect relevant information via residence and business customer surveys, which would be prepared with the Commission Staff's input, to augment the assessment. Further, SBC/Ameritech will develop and provide to the Staff all the models (*e.g.*, calculations, estimations, indices development) to achieve the goals of the marketplace competitive assessment as described above. The Staff may

attempt to obtain on an annual basis the information identified above for all competitors operating in the current Ameritech Ohio territory. In all events, SBC/Ameritech remain obligated to develop all required data. All such information will be extremely confidential and SBC/Ameritech shall limit its disclosure of company-specific information to only the Commission and the Commission Staff.

### **XIII. ENFORCEMENT**

A. Service Quality Test. If Ameritech Ohio fails to meet the service quality standards set forth below in Section XIII.A.1. for Ameritech Ohio's retail end user customers in its service area (as that area exists as of the Merger Closing Date), it will make payments in a total aggregate amount not to exceed \$16.666 million per year, for three years, pursuant to the following procedure:

1. The following performance measurements, weights, and standards will be used for purposes of this Service Quality Test:

<b>PERFORMANCE MEASURE</b>	<b>WEIGHT</b>	<b>STANDARD</b>
1) Business Office Average Speed of Answer	1.0	≤60 sec.
2) Repair Reporting Center Average Speed of Answer	1.0	≤60 sec.
3) OOS Repair Cleared Within 24 Hours	2.0	≥90%
4) New Access Lines Installed Within 5 Days	1.0	Year 1 ≥90% Year 2 ≥91% Year 3 ≥92%
5) Repair Premises Appointments and Outside Commitments Met	1.0	Year 1 ≥90% Year 2 ≥91% Year 3 ≥92%
6) Installation Premises Appointments Met	1.0	Year 1 ≥90% Year 2 ≥91% Year 3 ≥92%
7) Compliance With Certain PUCO Orders and Rules (as described in Section XIII.A.2.)	1.0	See XIII.A.2. below



2. The standard "Compliance With Certain PUCO Orders and Rules" will be determined as follows:
  - a. The 4 specific orders/rules to be reviewed during calls monitored jointly by Commission Staff and Ameritech Ohio representatives are as follows:
    - (A) The LEC shall notify the applicant or subscriber of the availability of credits (billing adjustments or installation charge waivers) for missed scheduled on-premises repair appointments, installation appointments, or outside repair commitments. Such notification shall be made at the time the applicant or subscriber arranges the appointment. (MTSS Rule 4901:1-5-18(D))
    - (B) Each LEC shall provide current subscribers or applicants for new or optional service(s) the necessary information to obtain the most economical LEC services conforming to his/her stated needs, including without limitation: (A) applicable services available; (B) rates, charges, and provisions of the applicable services; (C) any nonrecurring charges; (D) an estimate of the initial billing for all monthly service; and (E) all applicants for new local residential service (including additional lines) shall be advised of the option of deferred payment arrangements. (MTSS Rule 4901:1-5-06(D))
    - (C) Applicants for new basic local telephone service shall be asked whether they receive public benefits. All such callers who indicate that they receive public benefits will be informed that they may be eligible for telephone assistance and will receive, from the dedicated USA enrollment group, accurate information identifying the programs that qualify for USA services.
    - (D) Current USA subscribers who request payment plan information and all new applicants who are qualified or interested in the USA program shall receive accurate information about the arrearage payment plan available to USA customers.
  - b. Where during such joint monitoring the observation of a call permits Commission Staff to determine whether Ameritech Ohio has met one or more of the above orders/rules (Sections XIII.A.2.a.(A)-(D)), such observation shall result in a "valid observation" for each such order/rule.

- c. Commission Staff may make unannounced visits during each calendar month to Ameritech Ohio's business offices, repair offices, and collections/final accounts offices to monitor customer calls. Visits to each such office shall include an Ameritech Ohio supervisor or manager to join in remotely observing how service representatives and maintenance administrators handle consumer calls.
  - d. For purposes of calculating Ameritech Ohio's performance under each of the 4 rules/orders in Section XIII.A.2.a., the Commission Staff shall, during each measurement period, use no fewer than 50 and no more than 150 consecutive valid observations of Ameritech Ohio's compliance or non-compliance with such rule/order. In total, the Commission Staff shall, during each measurement period, use at least 400 valid observations. Such observations shall be reasonably distributed throughout the measurement period, by workday of the week, and across business offices, repair offices, and collection/final account offices located in or serving Ohio. If the Commission Staff fails to either: i) use at least 50 valid observations for each rule/order during a measurement period; or ii) use at least a total of 400 valid observations across all 4 rules/orders with no more than 150 valid observations per rule/order, then Ameritech Ohio shall be deemed in compliance with the "Compliance with Certain PUCO Orders and Rules" performance measure for that measurement period.
  - e. At the end of each measurement period, the number of valid observations involving a noncompliance summed across all 4 rules/orders will be divided by the total number of valid observations. If the result of such calculation is greater than 10%, Ameritech Ohio will be deemed to have missed the "Compliance with Certain PUCO Orders and Rules" performance measure for that measurement period.
- 3. Performance will be measured and reported in a manner consistent with the MTSS and will be subject to the exceptions set forth in O.A.C. 4901:1-5-18 and the Stipulation entered into in Case No. 98-191-TP-COI. For purposes of determining Ameritech Ohio's compliance, performance will be averaged over a period of 12 consecutive months.
  - 4. The Business Office Average Speed of Answer, Repair Reporting Center Average Speed of Answer, and Compliance With Certain PUCO Orders and Rules performance measures will be measured on a state-wide basis (the "State-Wide Measures"). All other performance measures shall be measured individually for the three geographic areas (the "Geographic Areas") set forth below (the "Geographic Measures"):

- a. Services provided to customers within the geographic area currently served by area codes 419, 513, and 937;
  - b. Services provided to customers within the geographic area currently served by area codes 216, 330, and 440; and
  - c. Services provided to customers within the geographic area currently served by area codes 614 and 740.
5. Ameritech Ohio's performance will be measured in accordance with the following time periods:
  - a. The Start Date will be the first day of the first month that starts at least 6 months after the Merger Closing Date (*e.g.*, if the Merger Closing Date is 7/15/99, the start date would be 2/1/00);
  - b. The Measurement Period will be consecutive 12 month periods (*e.g.*, if the start date is 2/1/00, the first measurement period would be 2/1/00 through 1/31/01); and
  - c. The Duration of the payment obligation under this Section will be three Measurement Periods (*e.g.*, the first Measurement Period would be 2/00 – 1/01, the second would be 2/01 – 1/02, and the third would be 2/02 - 1/03).
6. Ameritech Ohio will provide a report to the Commission Staff, OCC, Edgemont, and any other consumer group that is a Supporting Stipulating Party within 45 days following the end of each Measurement Period describing its performance for that Measurement Period as to each of the Performance Measures on a statewide basis or by Geographic Area, as applicable. Ameritech Ohio will also file a report with the Commission within 50 days following the end of each Measurement Period stating whether or not payment is due under Section XIII.A.7., below. If payment is due under Section XIII.A.7. below, Ameritech Ohio's filing will include proposed credits to be applied as provided in Section XIII.A.8. below, which credits will be made as proposed upon the Commission's approval of such filing. If the Commission has not ordered otherwise within 60 days of such filing, the filing shall be deemed approved.
7. Ameritech Ohio will make payment(s) in the amount of \$5.555 million under this Section XIII.A. in the event that, in any of the Geographic Areas, the sum of the weights associated with the Geographic Measures met for that Geographic Area during the applicable measurement period plus the sum of the weights associated with the State-Wide Measures during the applicable measurement period met is less than 5. If the total of such weights is 5 or more, no payment shall be due. For example, if Ameritech Ohio's weighted score for a particular measurement period is 4

or less as to each of the 3 geographic areas, the payment due is \$5.555 million for each geographic area, or \$16.66 million in total.

8. Unless ordered otherwise by the Commission, any payments made pursuant to this Section XIII.A. shall be applied by Ameritech Ohio in the following manner:

- a. 90% of the payment amount, as credits to Ameritech Ohio's end user customers within the affected geographic area(s). Such credits shall be calculated on a per account basis.
- b. 10% for use by the CEF, to be made available at the same time as the credits above are paid.

B. Competitive Test. If Ameritech Ohio fails to meet the competitive test as set forth in this Section XIII.B., it will make a payment of \$20 million pursuant to the following procedure:

1. At any time during the period commencing with the Merger Closing Date and ending 4 years thereafter, Ameritech Ohio will have satisfied the competitive test and no payment shall be required under this Section XIII.B. if Ameritech Ohio demonstrates any one of the following: (i) that the result of the Competitive Line Growth Test in Section IX.C.3. is that Competitive Line Growth is equal to or greater than 200,000 residential access lines; (ii) that Ameritech or one of its affiliates has received authority under Section 271 of the Telecommunications Act of 1996 to offer in-region interLATA services in Ohio; or (iii) if Section 271 of the Telecommunications Act of 1996 is repealed, that the result of the Competitive Line Growth Test in Section IX.C.3. is that Competitive Line Growth is equal to or greater than 115,000 residential access lines.
2. If the Commission determines that Ameritech Ohio has failed to make the demonstration set forth in Section XIII.B.1. as of a date within 4 years following the Merger Closing Date, Ameritech Ohio will make a payment of \$20 million as follows:
  - a. \$15 million as: i) credits to Ameritech Ohio's end user customers within Ameritech Ohio's current service area; and ii) payments to NECs providing end-user service within Ameritech Ohio's current service area, as follows:
    - (A) A NEC's Access Lines, for each NEC, shall be the total number of access lines in service, including, without limitation, residence access lines, business access lines and end-user trunks, and ISDN lines, whether resold or not, measured as of the date 4 years following the Merger Closing Date within Ameritech Ohio's current service area.

Each NEC that desires to receive any of the \$15 million in payments must provide to the Commission and Ameritech Ohio, no later than 4 years and 30 days following the Merger Closing Date, a report identifying the number of such lines and trunks for that NEC. Such report shall separately identify: i) the number of resold Ameritech Ohio access lines; ii) the number of unbundled loops purchased from Ameritech Ohio; and iii) all other such lines and trunks in service within Ameritech Ohio's current service area. Each NEC submitting such a report will certify to SBC/Ameritech and to the Commission the accuracy of such report.

- (B) Total NEC Access Lines shall be the sum of (A) above for all qualifying NECs submitting a timely report.
- (C) Total Ameritech Access Lines shall be the total number of access lines in service, including without limitation residence access lines, business access lines and trunks, Centrex lines, and ISDN lines, provided by Ameritech Ohio within Ameritech Ohio's current service area as of the date 4 years following the Merger Closing Date.
- (D) A NEC's Pro-Rata Share shall be the ratio of (A) above for that NEC, divided by the sum of (B) and (C).
- (E) Each affected NEC shall receive a payment equal to \$15 million multiplied by the NECs' Pro-Rata Share.
- (F) The amount remaining from the \$15 million, after subtracting all payments to affected NECs, shall be credited by Ameritech Ohio to its end user customers within its current service area. Such credits shall be calculated on a per account basis.
- (G) SBC/Ameritech reserve the right to hire an independent third-party auditor to perform all necessary audits needed to verify the reports submitted by NECs pursuant to XIII.B.2.a.(A). NECs that opt to take advantage of these payments must agree to cooperate in the performance of such audits, which will be paid for by SBC/Ameritech. Audit information will be restricted to SBC/Ameritech regulatory, legal, and/or AIIS personnel, and SBC/Ameritech will prohibit those personnel from disclosing audit-related information to Ameritech Ohio retail/marketing personnel.

- b. \$2.5 million to the CTF described in Section VI.G. at the same time as the payments/credits above are paid; and
  - c. \$2.5 million to the CEF described in Section VI.F. at the same time as the payments/credits above are paid.
- 3. Ameritech Ohio may file a report with the Commission at any time after 1 year following the Merger Closing Date, but shall file a report no later than 30 days following the close of the 4-year period following the Merger Closing Date, demonstrating that it has or has not satisfied the competitive test set forth above in Section XIII.B.1. Assuming Ameritech Ohio's report states that the test has been met, the test will be deemed met either: i) upon the issuance of a Commission order finding that the test has been met; or ii) if no order is issued within 120 days after such filing. If payment is due under Section XIII.B.2., such payment shall be made as provided therein when and as ordered by the Commission.

C. OSS Performance Measurements/Standards Test. If SBC/Ameritech fails to implement in Ohio at least 79 of the 105 performance measurements and related standards/benchmarks as set forth in Appendix 1 following the Merger Closing in accordance with the provisions of Section IV.D.6., SBC/Ameritech agree to make a payment of \$20 million as set forth in Section IV.D.6.

#### **XIV. MISCELLANEOUS**

A. In addition to those reports referenced above, Ameritech Ohio shall submit a report to the Commission each year for the 4 years following the Merger Closing Date describing and documenting the status and progress made in meeting the agreements and commitments made in this Stipulation and Recommendation.

B. Stipulating Parties agree not to propose, endorse, or seek legislation that would, by mandate, eliminate, limit, expand, or reduce the Joint Applicants' obligations with respect to the OSS and facilities commitments set out in Section IV.A. and IV.D.; the ADSL deployment commitment set out in Section V.C.; the rate freeze set out in Section VI.A.; the CEF, CTF and OCCCN funds described in Sections VI.F., VI.G., and VI.H., respectively; the non-telephone

household studies required under Section VIII.C.; the promotional unbundled loop discounts set out in Section IX.C.1.; the promotional resale discounts set out in IX.C.2.; the promotional provisions regarding non-recurring charges set out in Sections IX.C.4.j.(D), IX.F., and IX.G.; the payment amounts set out in Sections IV.D.6, XIII.A., and XIII.B; and the annual reports required under Section XIV.A.; provided, however, if a court decision, ruling on or interpreting the terms and conditions of this Stipulation, materially eliminates, modifies, or expands any of the foregoing provisions, any Stipulating Party may seek legislative relief from such court decision. Nothing contained herein shall be construed so as to limit the Commission or the Commission Staff's support of the Commission's legislative activities. In the event legislation is passed which, by mandate, eliminates, limits, reduces, or expands SBC/Ameritech's obligations under this Stipulation, SBC/Ameritech and the other Stipulating Parties will meet to discuss appropriate alternative obligations. In addition, in the event there is a change in the law that substantially changes the Commission's jurisdiction over incumbent local exchange telephone companies, the Joint Applicants agree that, unless specifically mandated otherwise, they will abide by all of the agreements and commitments made in this Stipulation.

C. The Stipulating Parties recognize that there may be Y2K-related problems that could arise which would render implementation time frames and commitments set forth in this Stipulation infeasible. In the event such problems arise, SBC/Ameritech agree to provide timely notice to the Commission and the Stipulating Parties, along with a proposed revised implementation schedule. Should any Stipulating Party not be in agreement with such schedule, SBC/Ameritech agree to meet with the Stipulating Parties to resolve any such disagreement.

D. The failure of any party to insist on the performance of any term or condition of this Stipulation and Recommendation or to exercise any right hereunder shall not be construed as a waiver of such term or condition or right.

E. The terms contained in this Stipulation constitute the entire agreement among the Stipulating Parties on the matters contained herein and there are no other agreements or writings on those matters except those referred to herein. This Stipulation may not be modified except by a writing signed by all Stipulating Parties.

F. Ameritech Ohio will work with the Commission Staff to identify any appropriate portions of this Stipulation which require an Ameritech Ohio filing at the Commission (including, but not limited to, tariffs) to implement this Stipulation.

G. The Stipulating Parties agree that this Stipulation is submitted for purposes of full and final settlement of all issues related to this proceeding, and is not to be deemed binding upon the Stipulating Parties in any other proceeding except as provided for elsewhere in this Stipulation. All settlement discussions related hereto are and shall be privileged and shall not be used in any manner, nor be admissible for any other purpose in connection with this proceeding or any other proceeding. All the matters set forth in this Stipulation are presented only in connection with this Stipulation and the Ohio merger proceeding, and are presented without prejudice to any position any of the Stipulating Parties, including without limitation the Commission Staff, may advance in other proceedings and any positions that they may take in any other proceedings whether state or federal. Nothing herein limits the participation or position of the Commission in other proceedings whether state or federal.

H. The participation of the OCC and Edgemont in this Stipulation is predicated upon the specific circumstances of Ohio state law and the Ohio regulatory environment, including, but



not limited to, the status of Ameritech Ohio's Alternative Regulation Plan, which may be subject to review beginning January 9, 2000. The participation of the OCC and Edgemont in this Stipulation does not indicate the support of any of the consumer coalitions in which the OCC and Edgemont have participated, for this Merger in any other jurisdiction, state or federal.

I. Except as otherwise provided in Section III.E., the Stipulating Parties represent that, in the interest of expediting this proceeding, they shall not file an application for rehearing or appeal from a decision of the Commission.

J. This Stipulation shall inure to the benefit of and be binding upon the successors and assigns of the Stipulating Parties.

Each of the undersigned Supporting Stipulating Parties hereby stipulates, agrees and represents that it is authorized to enter into this Stipulation and Recommendation this 23rd day of February, 1999.

SBC COMMUNICATIONS INC.

By: Paul K. Mancini

Its: ASSISTANT GENERAL COUNSEL

SBC DELAWARE, INC.

By: Paul K. Mancini

Its: ASSISTANT GENERAL COUNSEL

AMERITECH CORPORATION

By: Michael D. Mulcahy

Its: Counsel

AMERITECH OHIO

By: Michael J. Mulcahy

Its: Counsel

THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

By: Sturman

Its: counsel

THE OHIO CONSUMERS' COUNSEL

By: Thom D. Z...

Its: attorney

EDGEMONT NEIGHBORHOOD COALITION

By: Ellen Jacobs

Its: Counsel

PARKVIEW AREA WIDE SENIORS

By: Joe Messner *left for bill authorization*

Its: Counsel

**SIGNATORY PAGE FOR NON-OPPOSING STIPULATING PARTIES**

Each of the undersigned Non-Opposing Stipulating Parties hereby stipulates, agrees and represents that it is authorized to enter into this Stipulation and Recommendation this 23rd day of February, 1999.

TIME WARNER TELECOM OF OHIO L.P.

By: Paul B. Jones per auth  
MRS  
Its: Sr VP and General Counsel

CORECOMM NEWCO, INC.

By: Lally W Bloomfield/jmc  
Its: Counsel